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Monday, March 25, 2002

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In re


PETER and REGINA NEWCOME,

No. 01-12873

[Debtor](#)  (s).

Memorandum re [Plan](#) [Confirmation](#)

The only remaining objection to the debtors' plan is from [secured creditor](#)  Michael Freeman, who holds a note secured by a junior deed of trust to the debtor's residence which became all due before the bankruptcy. The plan calls for full payment of this obligation over the five year life of the plan, together with interest.

Freeman is correct in arguing that such a plan was not confirmable under *In re Seidel*, 752 F.2d 1382 (9th Cir. 1985). However, that case was overruled by the 1994 amendments to the [Bankruptcy Code](#) . See *In re Ibarra*, 235 B.R. 204, 208 (1999 Bankr.D.Puerto Rico); *In re Nepil*, 206 B.R. 72, 75 (1997 Bankr. D.N.J.); *In re Lobue*, 189 B.R. 281, 282 (1995 Bankr.S.D. Fla.); *In re Jones*, 188 B.R. 281, 282 (1995 Bankr.D.Or); *In re Miller*, 191 B.R. 487, 488 (1995 Bankr.S.D.Fla.); *In re Chang*, 185 B.R. 50, 53 (1995 Bankr.N.D.Ill.). Since 1994, no court has followed *Seidel*.

Since the plan meets all of the other requirements for confirmation, and since *Seidel* has been superceded by statute, and since the terms for treatment of the Freeman obligation are very fair and reasonable, the objection will be overruled and the plan confirmed. Counsel for the debtors shall submit an appropriate form of order.

Dated: March 25, 2002

Alan Jaroslovsky

U. S. [Bankruptcy Judge](#) 

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